

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

DANIEL B. GRAVES, Plaintiff, v. DEUTSCHE BANK SECURITIES, INC., Defendant.	CIVIL ACTION NO. 1:07-cv-05471-BSJ-KNF ECF Case
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**PLAINTIFF'S MEMORANDUM IN SUPPORT OF
HIS CONSENTED MOTION FOR LEAVE TO FILE
DOCUMENTS UNDER SEAL, AND TO CORRECT AN
INADVERTENT ERROR**

The Stipulation of Confidentiality (Doc. 22) entered in this case on November 19, 2007, plaintiff requires plaintiff to move for leave to file confidential documents under seal, and bars plaintiff from filing them in the public record of the Court.

Plaintiff and defendant have discussed the documents in good faith, before the filing of this Motion.

As the accompanying Declaration of Richard T. Seymour shows, the types of documents in question involve the internal business dealings of the defendant, and contain information about other employees, other companies, and internal business practices. The parties' original recognition that such documents should be protected remains as sound today as it was when they submitted the agreed Stipulation of Confidentiality to the Court in 2007.

Plaintiff is aware of the holdings of *Joy v. North*, 692 F.2d 880, 893 (2d Cir. 1982), *cert. denied*, 460 U.S. 1051 (1983), and *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 123 (2d

Cir., 2006), to the effect that “documents used by parties moving for, or opposing, summary judgment should not remain under seal absent the most compelling reasons.” *Lugosch* recognized that there may be “countervailing factors” justifying the sealing of such documents. The interests of nonparties in their financial and other forms of privacy is, we submit, such a countervailing factor.

The approach taken by the parties was narrowly tailored. Plaintiff’s own performance evaluations, for example, have been filed in the public record as to plaintiff’s motion for partial summary judgment. See Exhibits 11 and 14. The evaluations of nonparty present and former employees are an entirely different matter.

An intensifying factor underlying the need for confidentiality for such documents is that this case involves investment banking, where parts of the information may derive from, or directly reflect, information originally provided to defendant on a confidential basis by other companies or other persons.

An inadvertent error in the Statement of Undisputed Facts, ¶ 55, line 7, led to the name “Sun Yung” being placed on that line instead of the correct name, “Elizabeth Chang.” Declaration of Richard T. Seymour, ¶ 9. That error should be corrected in the unredacted Motion to be filed under seal.

WHEREFORE, plaintiff prays that his Motion be granted.

Respectfully submitted,

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By: /s/ Richard T. Seymour
Richard T. Seymour (RS 8094)
Attorneys for Plaintiff

Dated: May 25, 2012

Certificate of Service

I certify that I have, this 25th day of May, 2012, served a true and correct copy of Plaintiff's Memorandum in Support of His Consented Motion for Leave to File Documents Under Seal, on counsel of record for defendant, as shown below, by service through the Court's ECF system:

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